

IN THE SUPREME COURT OF THE STATE OF MONTANA

ORIGINAL

No. DA 09-0516

STATE OF MONTANA,

Plaintiff and Appellee,

v.

NIEL KELLY MULLARKEY,

Defendant and Appellant.

FILED

FEB - 3 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA**MOTION FOR EXTENSION OF TIME
AND AFFIDAVIT IN SUPPORT**

COMES NOW, Eli M. Parker, counsel of record for Defendant and Appellant, and respectfully requests an extension of time until March 8, 2010, in which to prepare, file, and serve the Appellant's opening brief in the above-entitled matter. In support of this motion, undersigned counsel respectfully submits the following affidavit.

Respectfully submitted this 3rd day of February, 2010.

OFFICE OF THE STATE PUBLIC DEFENDER
Region 2 – Missoula
610 North Woody
Missoula, MT 59802

By: *Joselyn Hunt*
Joselyn Hunt ELI M. PARKER
Assistant Public Defender

STATE OF MONTANA)
 : ss.

County of Lewis and Clark)

I, Joslyn Hunt, being first duly sworn upon my oath, depose and state as follows:

1. I am a licensed, practicing attorney in the State of Montana, and am currently employed by the Office of State Public Defender, Appellate Defender Office, as Chief Appellate Defender.

2. In my capacity as Chief Appellate Defender, I have assigned Eli M. Parker to handle the above-entitled matter.

3. The Appellant's opening brief was first due on December 3, 2009. The brief is presently due on February 5, 2009.

4. Mr. Parker currently has two opening briefs and one reply brief due in March. Additionally, Mr. Parker is the research attorney for Region 2 of the Office of the Public Defender. In that capacity, he has several briefs due in lower courts, two upcoming jury trial, and ongoing research projects for Region 2 attorneys. Due to a recent resignation within the Missoula Public Defender's Office, Mr. Parker has assumed an additional caseload, which requires frequent and ongoing client conferences, witness interviews, and court appearances.

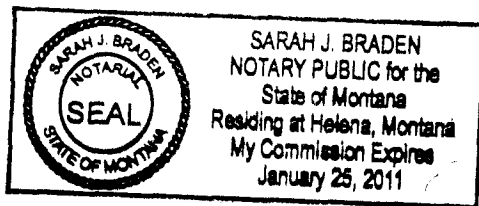
5. Mr. Parker cannot meet the present deadline for filing the Appellant's brief.

6. Opposing counsel has been contacted concerning this motion and does not object.

7. Further your affiant sayeth naught.

Joslyn Hunt
Joslyn Hunt

SUBSCRIBED AND SWORN to before me this 3rd day of February,
2010.



Sarah J. Braden
Sarah J. Braden

CERTIFICATE OF SERVICE

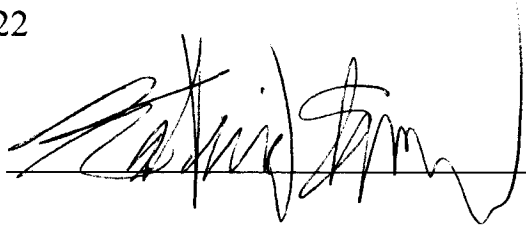
I hereby certify that I caused a true and accurate copy of the foregoing
Motion for Extension of Time and Affidavit in Support to be mailed to:

STEVE BULLOCK
Montana Attorney General
MARK MATTIOLI
Assistant Attorney General
215 North Sanders
P.O. Box 201401
Helena, MT 59620-1401

LEO J. GALLAGHER
Lewis and Clark County Attorney
228 Broadway-Courthouse
Helena, MT 59601

NIEL MULLARKEY 3002780
Montana State Prison
700 Conley Lake Road
Deer Lodge, MT 59722

DATED: 2/3/10

A handwritten signature in black ink, appearing to be "C. M. J.", written over a horizontal line.